

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jermaine Emmanuel Johnson,	)	
	)	
Petitioner,	)	Civil Action No. 5:21-3025-BHH
	)	
v.	)	
	)	<b><u>OPINION AND ORDER</u></b>
Warden of FCI Bennettsville,	)	
	)	
Respondent.	)	
	)	

Petitioner Jermaine Emmanuel Johnson (“Petitioner”), a federal inmate proceeding *pro se*, filed this habeas relief action pursuant to 28 U.S.C. § 2241. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation (“Report”).

On September 22, 2021, Magistrate Judge West ordered Petitioner to pay the filing fee or file a motion to proceed in forma pauperis, and to complete the attached § 2241 Petition. (ECF No. 8.) On October 4, 2021, the order was returned to the court as undeliverable with the notation “Return to Sender, Individual no longer at this address.” (ECF No. 13.) A federal inmate search was performed using Petitioner’s Federal Bureau of Prisons number and the search revealed Petitioner was released on September 27, 2021. (ECF No. 14.)

On October 6, 2021, Magistrate Judge West issued a Report recommending that this action be dismissed without prejudice in accordance with Federal Rule of Civil Procedure 41(b) for Petitioner’s failure to keep the Court apprised of his address. (ECF No. 16.) Attached to the Magistrate Judge’s Report was a notice advising Petitioner of his right to file written objections to the Report within fourteen days of being served with a copy. (*Id.* at 3.) Petitioner filed no objections and the time for doing so expired on October 23, 2021. (*See id.* (noting objections

were due by October 20, 2021, with an additional three days to be added if served by mail).)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court reviews the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (quotation marks and citation omitted)).

After a thorough review of the record of this matter, the applicable law, and the Report, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report (ECF No. 16) by reference herein. It is therefore ORDERED that this action be dismissed without prejudice in accordance with Rule 41(b) of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

/s/Bruce Howe Hendricks  
United States District Judge

October 26, 2021  
Charleston, South Carolina

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### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.